

Order

Michigan Supreme Court
Lansing, Michigan

April 8, 2009

Marilyn Kelly,
Chief Justice

136514

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 136514
COA: 280262
Leelanau CC: 06-001498-FC

FAYE ROBYN O'NON,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the April 4, 2008 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration, as on leave granted, of the issues: (1) whether the redacted transcript of the prior testimony of Matthew O'Non at his own trial, which was admitted in this case, was "testimonial" under *Crawford v Washington*, 541 US 36; 124 S Ct 1354; 158 L Ed 2d 177 (2004); (2) whether any statements in that transcript were hearsay under MRE 801(c) because they were offered to prove the truth of the matters asserted and therefore were barred by *Crawford*; and (3) whether all statements in that transcript that were offered to prove the falsity of the matters asserted necessarily were not hearsay under MRE 801(c) and thus were not barred by *Crawford*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



s0401

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 8, 2009

Corbin R. Davis

Clerk